



dca

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what to do if the

debt COLLECTOR

calls



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Falling behind on payments could lead to contact from a debt collector. If this happens, don't panic or avoid the calls. Instead, know your rights as a debtor.

Several laws regulate debt collection companies in California, including the Fair Debt Collection Practices Act (FDCPA) administered by the Federal Trade Commission (FTC), and California's Rosenthal Fair Debt Collection Practices Act (Civil Code 1788-1788.33).

don't hide

Respond immediately if you receive a demand for payment. The faster you and the collector communicate, the quicker the matter can be resolved.

If you receive a court summons regarding a debt, show up. Bring copies of any payment receipts, contracts, collector communication, and anything else you have to support your case. Failure to appear in court can, and often does, result in a default judgment against you.

validate the debt: do you really owe the money?

Third-party collection agencies are required by law to provide a written notice with the debt amount and the creditor's name to whom it's owed within five days after first contacting you about it. The law gives you the right to ask for even more information including the name and address of the original creditor, if different from the current one (debts are often resold). Make this request within 30 days after you receive the first collection notice. Any communication you have with the collector should be in writing for your protection. Once you tell the collection agency in writing that all communication must be in writing they must only contact you in writing.

Some collectors try to intimidate consumers into paying debts they don't actually owe. Don't fall for it. The debt may not be legally collectible for any of these reasons:

- » It's too old to be legally enforceable (the statute of limitations has passed). CAUTION: If you make any kind of payment toward the debt, make an agreement to pay, or charge against the account, by law, this restarts the statute of limitations.
- » It's owed by someone else (though you may be liable if you co-signed for it).
- » The claim is based on an agreement that must be in writing, but there is no written contract.
- » You were billed for an item that you never ordered, never received, or that you returned.
- » The contract is one that you have a right to cancel.
- » You are a victim of fraud or identity theft.
- » The debt was discharged in bankruptcy.
- » Protections apply under the Servicemembers Civil Relief Act.

You may need to consult an attorney to help you determine if you legally owe the debt. Consumers should be responsible for their debt, but collection industry representatives must use lawfully authorized remedies to collect it.

what collectors can't do

- » Use, or threaten to use, physical force, violence, or any criminal means to harm you, your reputation, or your property.
- » Threaten any action that they don't intend to take, or is against the law.
- » Use obscene or profane language.
- » Call you before 8 a.m. or after 9 p.m.
- » Cause a telephone to ring repeatedly, or contact you so often it constitutes harassment.
- » Discuss specifics of your debt with anyone else.
- » Say they're attorneys when they're not.

what collectors can do

- » Contact your employer for reasons essential to the debt collection, such as confirming that you work there, checking for medical coverage for a medical bill, or effecting wage garnishment after winning a court judgment.
- » Contact another person to confirm your location or enforce a judgment.
- » Sue you if you ignore their collection attempts, get a court judgment against you, and use it to garnish your wages.
- » Add interest to the debt owed (within limits specified by the agreement that created the original debt, or by law). Ask the collection agency in writing to explain to you—also in writing—how much interest is added and why.



if you're an identity theft victim

Visit the FTC's identity theft Web site at www.ftc.gov and follow the steps, or call 877.FTC.HELP or 877.382.4357.

writing responses to debt collectors

For help writing response letters to debt collectors, including sample language for payout agreements and requests to stop contact, refer to Legal Guides DC-1 and DC-2 from the California Department of Consumer Affairs. You'll find all of our Legal Guides at www.dca.ca.gov under the "Publications" tab.

filing a complaint

If you think a debt collector has violated a law, you can file a complaint with the California Attorney General's Office at 800.952.5225 and the FTC at 877.FTC.HELP or 877.382.4357. Collection laws give you the right to sue a collector in a State or Federal court within one year from the violation date.